

In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-1545

**EARL L. BUTZ, SECRETARY OF AGRICULTURE, AND
THE UNITED STATES OF AMERICA, PETITIONERS**

v.

GLOVER LIVESTOCK COMMISSION COMPANY, INC.

**ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT**

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RELEVANT DOCKET ENTRIES

In Proceedings Before the Secretary of Agriculture

P & S Docket No. 4156

Date	Proceedings
1969	
May 13	Complaint filed
June 20	Answer of Respondent filed
1970	
January 28-29	Hearing held
August 17	Hearing Examiner's Recommended Decision filed
1971	
February 5	Decision and Order of the Judicial Officer filed
February 18	Stay Order Pending Outcome of Court Appeal filed

No. 71-1092 in the United States Court of Appeals for the Eighth Circuit

1971	
February 22	Petition for Review filed
1972	
January 26	Opinion and judgment filed

No. 71-1545 in the United States Supreme Court

1972	
April 18	Order Extending time for filing a petition for a writ of certiorari to and including May 25, 1972
May 25	Petition for a writ of certiorari filed
June 13	Order Extending the time for filing the Brief for the Respondents in Opposition
July 27	Brief for the Respondents in Opposition filed
October 24	Order granting petition for a writ of certiorari

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

GLOVER LIVESTOCK COM-
MISSION COMPANY, INC.,
RESPONDENT

P. & S. Docket No. 4156

COMPLAINT

[Filed May 12, 1969]

There is reason to believe that the respondent named herein has wilfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*), hereinafter referred to as the Act, and the regulations promulgated thereunder by the Secretary of Agriculture (9 CFR 201.1 *et seq.*), hereinafter referred to as the regulations, and, therefore, this Complaint is issued alleging the following:

I

(a) Glover Livestock Commission Company, Inc., hereinafter referred to as the respondent, is a corporation with its principal place of business located at Pine Bluff, Arkansas 71601.

(b) Respondent is, and at all times material herein was:

(1) Engaged in the business of conducting and operating the Glover Livestock Commission Company, Inc., stockyard, Pine Bluff, Arkansas, a posted stockyard under the Act, hereinafter referred to as the stockyard;

(2) Engaged in the business of selling livestock on a commission basis at the stockyard; and

(3) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce.

II

(a) On or about June 2, 1964, and July 26, 1966, representatives of Complainant conducted an investigation of respondent's operations under the Act, and, in connection therewith, reweighed several drafts of consigned livestock that respondent, through its weighmaster employee, had

weighed for sale on a weight basis at the stockyard. Such reweighing disclosed that respondent, through its weighmaster employee, had weighed said drafts of consigned livestock at less than their true and correct weights. Accordingly, respondent was notified of the results of the checkweighing by a letter dated August 4, 1966, and was requested to institute corrective action which would assure accurate weighing at the stockyard in compliance with the Act and the regulations.

(b) On or about June 20, 1967, representatives of Complainant conducted another investigation of respondent's operations under the Act, and, in connection therewith, reweighed several drafts of consigned livestock that respondent, through its weighmaster employee, had weighed for sale on a weight basis at the stockyard. Such reweighing disclosed that respondent, through its weighmaster employee, had weighed said drafts of consigned livestock at less than their true and correct weights. Accordingly, respondent was notified of the results of the checkweighing by a certified letter dated June 26, 1967, and was requested to institute corrective action which would assure accurate weighing at the stockyard in compliance with the Act and the regulations.

(c) Notwithstanding the notices mentioned in subparagraph (a) and (b) above, respondent, on or about February 25, 1969, in the transactions referred to in the tabulation below, in connection with the weighing of consigned livestock sold by respondent on a weight basis at the stockyard, (1) weighed the livestock at less than their true and correct weights; (2) issued scale tickets and accountings to the consignors of the livestock on the basis of such false weights; and (3) paid the consignors for the livestock on the basis of such false weights.

No. of Head and Description	Name of Consignor	Sales Weight (Pounds)	Weight Shown Upon Reweighing (Pounds)	Weight Difference (Pounds)
1 Calf	E. E. Silliman	300	305	5
1 Calf	J. A. McFarlin	335	350	15
1 Calf	Bobby Whithead	255	265	10
1 Calf	O. Wolfe	370	380	10
1 Calf	E. Graves	380	390	10
1 Calf	Southwest Cattle Co.	365	370	5
1 Calf	M. N. Williams	365	370	5
1 Calf	Henry Williams	360	365	5
1 Calf	Southwest Cattle Co.	245	255	10

III

Respondent, in connection with the transactions specified in paragraph II above, kept accounts and records which failed to fully and correctly disclose all transactions involved in its business, in that respondent prepared, and made a part of respondent's accounts and records, scale tickets, accounts of sale, and buyers bills which failed to show the true and correct weights for the livestock specified in said paragraph II.

IV

By reason of the facts alleged in paragraph II herein, respondent has wilfully violated sections 307 and 312(a) of the Act (7 U.S.C. 208 and 213(a)) and sections 201.43(a), 201.55 and 201.71 of the regulations (9 CFR 201.43(a), 201.55 and 201.71).

By reason of the facts alleged in paragraph III herein, respondent has wilfully violated section 401 of the Act (7 U.S.C. 221), and section 201.49 of the regulations (9 CFR 201.49).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act and the regulations thereunder, this Complaint shall be served upon the respondent. The respondent will have twenty (20) days after receipt of this Complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer

with an original and three (3) copies, fully and completely stating the nature of the defense and admitting or denying each material allegation of this Complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this Complaint.

The Packers and Stockyards Administration requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of the Complaint, this proceeding be set down for oral hearing in conformity with the rules of practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted in the premises.

Done at Washington, D. C.

May 12, 1969

/s/ Donald A. Campbell
 DONALD A. CAMPBELL
 Administrator, Packers and
 Stockyards Administration

RONALD M. GASWIRTH
 Attorney for Complainant

[Title Omitted in Printing]

Designated Portions of the Transcript of the
Hearing Held before the Hearing Examiner
on January 28 and 29, 1970

[86]

KENNETH GRIEZZELL—CROSS

Q I understand. Are you saying these gentlemen cheated? [87] That's what I'm trying to find out.

A I feel like they weighed these livestock inaccurately.

Q Intentionally, with a desire and intent to favor the buyer? Are you saying that?

A From the records that were put in here I would think this. They were put on notice of—

MR. KRZYMSKI: Mr. Examiner, I think this is a question for the Examiner to determine. I don't know whether the witness is qualified to testify as to the intent of anyone at the time of these check-weighings.

MR. EILBOTT: He's qualified to say what he thinks. He's the supervising authority of this area.

MR. KRZYMSKI: I think you're asking him to state the state of mind of someone else at the time of these weighings.

MR. EILBOTT: I'm saying the state of mind of him.

HEARING EXAMINER BAIN: It's admissible on cross.

THE WITNESS: I don't think they weighed them correctly at the time of sale.

By MR. EILBOTT:

Q Do you think they intentionally did that?

A If they instructed their weighmaster to weigh this way, I'd say yes.

Q Do you have any proof they did that?

A No, sir, I don't.

[88] Q Not a bit, isn't that right?

A I don't have any proof they told the weigher to weigh this way.

BEN BAIRD—CROSS

[137]

By MR. EILBOTT:

Q Mr. Baird, you weren't at the sale at all that day or did you come in at the last of the sale?

[138] A On March 25th?

BEN BAIRD—CROSS

Q February 25th.

A No, sir.

Q You didn't come in until after the sale was over.

A That's correct, practically the time the sale was over.

[197]

: : :

E. F. "BUCK" OLIGER—DIRECT

was called as a witness on behalf of the respondent, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. EHLBOTT:

Q Your name is E. F. "Buck" Oliger?

A That's correct.

Q. Mr. Oliger, how long have you lived in Jefferson County, Arkansas?

A. Since 1929.

Q. For the record, Pine Bluff is a part of Jefferson [198] County and is the county seat; is that correct?

A. Yes, sir.

Q. Mr. Oliger, how long have you known the Glover boys? There are four of them sitting here. James isn't here.

A. Well, I imagine I'm older than any of the boys, so I would say all their life. I knew their daddy.

Q. If they are still classified as boys, Mr. Oliger, you are older than they are.

Mr. Oliger, you hold a position in Jefferson County, do you not?

A. Yes, sir.

Q. What is your position?

A. I'm sheriff of Jefferson County.

Q. And the collector of its taxes?

A. That's correct.

Q. How long have you been sheriff?

A. This is going on my fourth year.

Q. Mr. Oliger, before you were sheriff, what positions have you held in this county?

A. I was with the city police department and spent about eighteen years—seventeen years in the sheriff's office prior to being elected.

Q. You were the deputy sheriff?

A. Yes, sir.

Q. You say you have known these boys since 1929?

[199] A. Yes. I knew their father and then them.

Q. Mr. Olinger, do you know these young men, all of them, and their reputation in this community for truthfulness and honesty?

A. Yes, sir.

Q. Would you say it is good or bad?

A. Good.

MR. EILBOTT: That's all I desire to ask.

MR. KRZYMINSKI: No cross examination.

JUANITA LEE—DIRECT

was called as a witness on behalf of the respondent, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. EILBOTT:

Q. Your name is Juanita Lee?

[200] A. Right.

Q. Your name before marriage, however, was Juanita Glover; is that right?

A. Yes, sir.

Q. And you are a sister to James and Roy and Donnie and Thomas and Ed?

A. Yes, sir.

Q. Is that correct?

A. Right.

Q. For the record, James and Roy and Donnie and Thomas are the owners of Glover Livestock; is that correct?

A. That's correct.

Q. Ed doesn't have any interest in Glover Livestock Commission Company, Inc., the defendant herein?

A. Right.

Q. But the others are the owners and stockholders of it?

A. Right.

Q. Do you own any stock in the corporation?

A. No, sir.

Q. What job do you have, if any, out there?

A. I keep the records.

Q. You are the bookkeeper of the corporation?

A. Right.

Q. And how long have you been so employed? You are a [201] paid employee?

A. Right, since July of 1956.

Q. Since July of 1956.

A. Right.

Q. Juanita, during that time you have seen Exhibit 6, these weight reports, come through your office; is that correct?

A. Yes, sir.

Q. Are they a part of the records that are kept by your office?

A. Yes, sir.

Q. And you have seen the weight approval as shown—I mean the scale approvals as shown by Exhibit 6 come through the office regularly and be filed; is that correct?

A. Right.

Q. Juanita, would you tell me please when Glover Livestock Commission was organized? Do you know?

A. Daddy started it in 1936.

Q. For the record, what was your father's name?

A. James Elbert Glover.

Q. And he started it in 1936—

A. Right.

Q. —as a privately owned concern?

A. Right, Glover Commission Company.

Q. That's all that was in it, right?

A. Right.

[202] Q. When did he take in some of the boys?

A. I think it was '45 or '46. I won't say for sure because they had just come back out of the army.

Q. Who had come back?

A. Roy and James. Roy is the oldest.

Q. So that the record will reflect and in order that Mr. Bain will know, we have these men here that Buck Oliger called boys. Do you know how old Roy Glover is? He is president of Glover Livestock.

A. Roy is 45.

Q. James is the next one, is he not?

A. James is 43.

Q. James is the one that is sick, right?

A. Right.

Q. And the next one, then, is you?

A Right.

Q I won't ask you your age. The next one after that is Thomas?

A Ed.

Q How old is Ed?

A Ed is forty.

Q And Thomas is the next one.

A Thomas is 33.

Q And Donnie, of course, is the baby of the family. How old is he?

[203] A He's 31.

Q Now after the war your father took in first Roy and James?

A Right.

Q And later on—

A Of course, they grew up with working in it. They were working with dad.

Q Before they went to war?

A Right. Of course, they became partners after they came back from the army.

Q And gradually it has expanded to include all of the boys except Ed.

A Right.

Q Now Ed runs his own trucking; is that correct?

A Right.

Q And as such, he hauls cattle from the yard; is that correct?

A Right.

Q In addition to that, all of the Glover boys, plus Ed—including Ed—operate through Southwest Cattle Buying Association; is that correct?

A Right.

Q What is the correct name of that?

A Southwest Cattle Company.

Q That is an order taking and selling partnership—
[204] it's not a partnership, but is actually owned by James?

A Right.

Q Not attempting to go into great detail with you on the matter, but Southwest buys and sells cattle; is that correct?

A Correct.

Q Some of which are bought and sold through the auction; is that correct?

A Right.

Q Do you know what the boys get for buying or selling cattle through Southwest?

A We get 25 cents a hundred. The office keeps a nickel and the buyer gets twenty cents.

Q A nickel goes to James. That is the office, and James owns the office; is that correct?

A Yes.

Q Now, can you tell me this: how many employees do you all have out there?

A In Glover Livestock Commission Company?

Q Yes, ma'am.

A I had 97 W-2 forms.

Q For last year?

A Right.

Q Of those 97 part of them are part-time workers, aren't they?

A Right.

[205] Q You have some turnover; is that not correct?

A Very much in the colored help on sale day.

Q In other words, on Tuesdays you have to have extra help.

A Right.

Q Do you have any idea how many you put on for Tuesdays?

A There will be fourteen or fifteen behind the scales.

Q And consequently those fourteen or fifteen turn over some.

A One day a week it's hard to keep someone.

Q So that's the reason for the 97.

A Right.

Q For the benefit of the Hearing Examiner, could you tell me what the gross sales, approximately, of Glover Livestock were last year through the auction.

A Through the auction—I didn't get the exact amount—it will be around \$5 million.

Q Can you tell me, please, what the gross—I presume it would be sales and purchases—through Southwest Cattle Company was?

A It was pretty close to the same figure.

Q Was it a little more or a little less?

A I believe it was a little less.

Q I had understood it was a little more.

A In which one?

[206] Q Southwest Cattle Company.

A Southwest is a little more than Glover Livestock Commission Company.

Q Do you have any idea how many cattle were bought and sold by Southwest last year?

A No, sir, I don't. I can get that, but I don't remember.

Q Would 65,000 sound about right?

A Approximately.

Q That's the figure you gave me the other day.

Now in order to give Mr. Bain an idea of the size of the sales, you all had a sale last Tuesday; is that correct?

A Correct.

Q You have an auction every Tuesday through Glover Livestock; is that right? Glover Livestock is the defendant herein.

A Right.

Q Last Tuesday you had a sale; is that right?

A Right.

Q It was a large sale, was it not?

A It was.

Q I believe you told me that—I'm leading.

MR. EILBOTT: Mr. Krzyminski, any time you want me to stop you tell me. I'm trying to put these facts in the record.

MR. KRZYMSKI: I see.

[207] By MR. EILBOTT:

Q Juanita, you had not had a sale since when?

A Well, we had a small sale, of course, the week before, but the weather was bad and it was a very small one. Sixty head is what I think it was.

Q We have had unusual snow and ice here in the last month; is that correct?

A Right.

Q It's something we don't know much about. The farmers don't get in.

A Right.

Q Therefore, Tuesday was an unusually large sale?

A Yes, sir.

Q How many cattle were run through the auction Tuesday?

A Seven-sixty, I believe or around that figure. I don't have it exact.

Q Around 760 cattle?

A Close to 800.

Q Now I want to ask you one other question, if I may. Juanita, I hand you herewith Exhibit 4-A of the Government. This is the schedule of reweighing that the Government made, according to the record, on February 25, 1969. You are the receiver and paymaster; is that correct?

A Correct.

Q What is owed by the buyers you receive—

[208] A Yes.

Q —and what is owed to the seller of the cattle you pay out; is that correct?

A Correct.

Q You are the paymaster.

A Right.

Q Now in this reweighing which is shown in Exhibit 4-A, there is shown a first group of cattle that went to S. V. Hunt. For the record, can you tell me who S. V. Hunt is?

A S. V. Hunt is an order buyer that lives at Heber Springs, Arkansas. He buys for Swift and Company. These calves he sent to St. Louis.

Q To Swift and Company?

A Right.

Q Now the next lot of cattle are shown as having been sold to Southwest Cattle Company; is that correct?

A Correct.

Q And by the side of that it has the word "Tom"; is that correct?

A Right.

Q Now Southwest Cattle Company is your order buying company—

A Correct.

Q —and order selling company.

A Right.

[209] Q And it is owed by James as you described awhile ago?

A Correct.

Q They buy for individuals; is that correct?

A Correct.

Q And they also buy for firms and corporations?

A Right.

Q Now, can you tell me when Southwest Cattle Company was the purchaser of those cattle, which are shown on Exhibit 4-A with the word Tom by the side of it, who those cattle were bought for? Who is Tom? Is it Thomas Glover?

A No, sir, it's Tom Triplett.

Q And who is Tom Triplett?

A He's a man that called in for cattle that lives at Amarillo, Texas.

Q And do you all ship those cattle to him?

A We do.

Q After the sale?

A Yes, sir.

Q That is Tom Triplett from Amarillo; is that correct?

A Correct.

Q And he sends you the check. Is that the idea?

A Yes, sir.

Q Now the next group of cattle that are shown there is also shown as Southwest Cattle Company and the mark number is 106, and outside of it I asked Mr. Grizzell or Mr. Baird [210] yesterday on the witness stand from the actual weigh tickets to show these numbers, and they have been placed in there. Southwest Cattle Company number 33. Is that an order for an individual or firm?

A Yes, sir.

Q Who is that an order for?

A Van Roach Cattle Company at Ft. Worth, Texas.

Q In other words, when this Exhibit 4-A on this reweighing shows that Southwest Cattle Company sold a cow, through the auction, to Southwest Cattle Company number 33, that meant that someone who was a member of Southwest had sold this cow to Van Roach; is that correct?

A Correct.

Q Who was the owner of Southwest Cattle Company calf number 106? Did you look it up for me?

A Yes, sir. That was Thomas.

Q Thomas Glover?

A Right?

Q He owned a calf—

A Right.

Q —that was run through the auction.

A Right.

Q And it was sold to Van Roach?

A Yes, sir.

Q And they are in Ft. Worth; is that correct?

[211] A Yes.

Q And it was to be shipped to him?

A Right.

Q And on that reweighing Thomas Glover, according to the Government's figures, lost ten pounds. That is, the cow was sold for 245 pounds when in truth and fact it weighed 255 pounds.

A Correct.

Q So if anybody got cheated out of any money Thomas Glover got cheated; is that correct?

A Right.

Q Now the next Southwest Cattle Company right below that is cow number 400. Who is Southwest Cattle Company number 45?

A That's also Van Roach.

Q That's another number assigned to Van Roach?

A Right.

Q What is the reason that he has more than one number?

A When they call in—at this time they were buying as high as fifteen or twenty different classes of cattle for Van Roach Cattle Company. This way they have certain numbers for steers and their weight and heifers. This 31X is a heifer, and the rest are steers and their weight.

Q Now the next item here is cow number 177 and it's number 30.

[212] A Yes.

Q Southwest Cattle Company number 30. Who is Southwest Cattle Company number 30?

A That's also a calf for Van Roach.

Q Can you tell me who calf number 179, 31X, is?

A Still Van Roach.

Q And it's a heifer?

A Right.

Q The next one is item number 430. That is Southwest Cattle Company number 37. Who is that?

A That's Van Roach.

Q And the next one 199 is the mark, and its Southwest Cattle Company number 30. Who is Southwest Cattle Company number 30?

A That's also Van Roach.

Q Does one of the boys buy everything for Van Roach,

or was it possible that more than one of them would have been buying?

A Ed was the buyer on these cattle.

Q On all of those cattle that are shown as having been bought—that's 106, 400, 177, 179, 430, 252, and 199; is that correct?

A Right.

Q Over on the next page let's see if we have any more? The next group of cattle begin with mark 208, 326, 325, 322, [213] and 319. Do you see this on page two of this Exhibit 4-A of the Government?

A Yes, sir.

Q That has Southwest Cattle Company as the purchaser and by the side of it it's got "Armour"; is that correct?

A Yes.

Q Who is Armour?

A Armour and Company of Memphis is a packing company that we buy for.

Q One of the boys bought through the auction sale in the name of Southwest Cattle Company, the order buying company, a group of cattle for Armour and Company—

A Correct.

Q —to be shipped to them?

A Correct.

Q Do you know which one of the boys handled the purchase for Armour and Company?

A It will be either Ed or James.

Q They both buy for Armour and Company; is that correct?

A Right.

Q And that is the situation on this Exhibit 4-A; is that correct?

A Yes, sir.

Q Well, I'll go back up to the same thing. I want [214] to point out on mark 117 that Southwest Cattle Company is shown as the seller. Did you look up for me to see who actually owned that cow or calf?

A No, I didn't, but it will be on the ticket and I can tell from that.

Q I'll get it for you.

A On number 117—it looks like all of these are Tom.

Q In order to keep on the records, that's an overweight. I'm sure they have that on their exhibit.

A I think we have all this down as Tom.

Q The Government has introduced as its exhibit, Exhibit 4-C, which are the weight tickets for those cattle which are shown to have been sold for less weight than the cow actually weighed on reweighing.

Item number 117 is shown as an owner, Tom. No, that's sold to Tom. How can you tell who owned the cow?

A Here is the owner here. (Indicating.)

Q That's Southwest Cattle Company. What I'm trying to find out is do you know which one of the boys owned it.

A Thomas.

Q Thomas Glover owned calf number 117; is that correct?

A Right.

Q And he sold that cow in auction; is that correct?

A Correct.

Q He sold it to Southwest Cattle Company for Tom; is [215] that correct?

A Correct.

Q And that was Thomas Triplett?

A Right.

Q So on that sale, according to the Government's weighing, Thomas Glover lost five pounds that he should have been paid for; is that right?

A Right.

Q They weighed the cow at the sale and it was 365 pounds, and when the Government reweighed it, it was 370 pounds; is that correct?

A That is.

Q So Thomas, according to that, lost five pounds on the calf he sold; is that correct?

A That's correct.

MR. EILBOTT: You may examine. That's as far as I want to go with this witness.

JUANITA LEE—CROSS EXAMINATION

By MR. KRZYMINSKI:

Q Mrs. Lee, when these cattle are billed out to Armour or Tom or anyone else for whom Southwest Cattle Company buys on order, what does Southwest Cattle Company receive in payment from the recipient of the livestock?

A You mean when we ship these cattle?

[Title Omitted in Printing]

ANSWER

[Filed June 20, 1969]

Comes the respondent and as and for his answer to the complaint filed herein and states:

1. Respondent admits the allegations of Paragraph I of the complaint.

2. Respondent denies each and every material allegation of Paragraph II of the complaint and specifically denies that the alleged reweighing conducted by the complainant resulted in a finding that the livestock checked by the complainant's agent weighed more than reflected on the respondent's records.

3. Respondent would specifically state that the records of the complainant revealed that on those occasions tests were conducted, certain of the livestock reweighed were revealed to be of less weight than indicated on the respondent's weight tickets. Further, that the complainant's own records reveal that in addition to the livestock referred to on page 3 of the complaint, of which there are 9 in number, 19 other cattle were weighed by the complainant's representatives and as a result of said reweighing, 10 of the cattle were found to have the same weight as indicated by the respondent's records and 9 were found to weigh less than indicated by the respondent's records.

4. That some of the livestock referred to on page 3 of the complaint were sold by the Southwest Cattle Company, which is an allied corporation of the respondent, and according to the complainant's records these livestock were sold at weights less than the alleged tests conducted by the complainant's representatives indicated.

5. That all tests allegedly conducted by the complainant's representatives were of cattle taken from various pens in the stockyard after the sale and weighing by the respondent, some of which pens had feed and water which would cause the cattle to gain in weight and some of which pens had neither. That the partaking of feed and water after weighing by the respondent's weighmaster would have resulted in a material variance in the weight of the livestock in issue.

6. That the scales used by the respondent are periodi-

cally checked by an individual designated by the complainant who holds himself out to be an expert in this field and at the conclusion of each test, authorized and directed by the complainant, the scales in issue were approved.

7. Respondent denies each and every allegation of Paragraph III of the Complaint.

8. Respondent denies each and every allegation of Paragraph IV of the complaint.

9. Respondent requests an oral hearing on all issues involved herein.

WHEREFORE, respondent prays that the complaint of the complainant be dismissed and that the complainant be granted none of the orders or other procedures set out in the complaint.

REINBERGER, EILBOTT, SMITH & STATEN
P. O. Box 5010

PINE BLUFF, ARKANSAS

ATTORNEYS FOR RESPONDENT

By R. A. Eilbott, Jr.

[R. A. EILBOTT, JR.]

[Verification and certificate of service omitted in printing]

Q Is there any particular reason why Southwest is shown rather than Tom Glover?

A Yes. They all clear through that company.

Q But you are stating that each takes individual ownership; is that correct?

A Yes. If anything—well, say they have a calf that maybe they got too much for a load—they couldn't get it on—then they sell those cattle. Carryovers and things like that are checked into the ones that buy them.

Q And they sell them as cattle belonging to Southwest Cattle Company—

A Right.

Q —rather than as cattle belonging to each individual.

A Well, I run it through Southwest Cattle Company.

MR. KRZYMINSKI: I have no further questions.

[JUANITA LEE] REDIRECT EXAMINATION

By MR. EILBOTT:

Q Let's carry Mr. Krzyminski's calculations just a little bit further, if we may. In the first place, I want to ask you if you keep some type of record out there at the office which shows, for instance, that Thomas Glover was, in fact, prior to the auction the owner of these two cows or calves, [220] 117 and 106.

A Yes, sir.

Q You have a sheet or ledger that shows—

A Showing where Thomas bought those calves.

Q And they are entered up as a credit to Thomas'—

A Account.

Q —account on Southwest Cattle Company's total ledger; is that correct?

A That's correct.

Q Mr. Krzyminski started out with some mathematical calculations, but we didn't go far enough to suit me. It may have been for his purpose, but not for mine.

Now with that Exhibit 4-A in front of you, what—what was the other exhibit you used?

MR. KRZYMINSKI: Exhibit 4-E.

By MR. EILBOTT:

Q Mrs. Lee, you said that 117, I believe it was, sold at thirty-two and a half cents.

A Correct.

Q The Government showed that the overweigh was five pounds; is that right?

A Correct.

Q Therefore, multiplying thirty-two and a half cents by five pounds that would be that Thomas Glover received \$1.62 and a half cents less for that calf than he would have received had the auction sale shown the same weight as the [221] Government showed?

A That's correct.

Q Since there was on the other calf, 106, twenty-nine and a half cents a pound and the Government's record shows that Thomas Glover received ten pounds too little; is that correct?

A Correct.

Q Therefore, according to the Government's records, Thomas Glover received \$2.95 less for that cow than he would have received had the Government's weight been accepted, rather than the auction sale weight; is that correct?

A That is correct.

Q Now who bought for Tom Triplett, the buyer of animal number 117?

A Don.

Q And Donnie got for Tom Triplett's sale 25 cents a hundred weight.

A Correct.

Q Twenty-five cents a hundred weight, that's a quarter of a cent per pound.

A Right.

Q So Donnie, in the case of cow 117, got one and one fourth cents more for that cow than he would have gotten as commission if the auction sale had been the correct weight instead of the Government's weight; is that correct?

[222] A Correct.

Q So it cost Thomas Glover, his brother, \$1.62 and a half cents to produce one and one fourth cents for Donnie, is that correct?

A Correct.

Q And Donnie had to give James one-fifth of that because he gets a nickel out of every 25 cents for his overhead and bookkeeping; is that correct?

A Correct.

Q And James is not a member of Glover Livestock; is that correct?

A Did you say James?

Q Yes.

A It's Ed.

Q That's right. James is a member, but he is also the owner of Southwest.

A Right.

Q Let's carry cow number 106. Who bought for Southwest Cattle Company number 33?

A Ed.

Q He's not a member of the corporation, right?

A Right.

Q Ed bought for Van Roach, number 33. According to the calculations it cost Donnie—I mean Thomas \$2.95 because the Government said that calf weighed ten pounds more than he [223] received for it; is that correct?

A Correct.

Q That's ten times twenty-nine and a half cents. For him to be shorted \$2.95, Ed down there got ten one-fourth cents as commission, or in other words, he got two and a half cents more for that calf because it actually weighed ten pounds more than Thomas got for it.

A Correct.

Q Except for the fact, of course, that you all still billed, I presume, Van Roach and Tom Triplett on the basis of your auction sale, and not what the Government reweighed; is that right?

A That's right.

Q If we figured it out, it would amount to two and a half cents commission on one for a loss of \$2.95 to his brother. The other one would amount to \$1.62 cent loss for Thomas in order that his brother would have gotten one and one fourth cents.

But the truth about the matter is that you all billed on the basis of your auction sale figure or weight, so actually the only person that really lost, as far as those two sales was concerned, was Thomas lost \$1.62 and a half cents on one and \$2.95 on the other; is that correct?

A Correct.

Q And the brothers didn't get paid a dime more as [224] commission for having that extra five and ten pounds; is that correct?

A That's correct.

Mr. EILBOTT: That's all.

[JUANITA LEE] RE-CROSS EXAMINATION
By Mr. KRZYMSKI:

Q Mrs. Lee, do you know at what price per hundred weight Thomas Glover originally purchased animal number 106?

A No, I don't.

Q And do you know at what price per hundred weight he originally purchased animal 117?

A No. I could check and see if both of those were bought on orders. Sometimes he buys just to trade.

Mr. KRZYMSKI: I have nothing further.

(Witness excused.)

. . .

HENRY B. SMITH—DIRECT

was called as a witness on behalf of the respondent, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. EILBOTT:

Q Your name is Henry B. Smith?

[225] A Right.

Q You are the Circuit Judge in and for the Eleventh Judicial District or is it the Twelfth?

A Eleventh.

Q It's the Eleventh Judicial District of Arkansas?

A Yes.

Q As such you are the Circuit Judge for Jefferson County, Lincoln County and Desha County; is that correct?

A Correct.

Q And in our system of jurisprudence the Circuit Judge is the trier with a jury; is that correct?

A Correct.

Q In other words, you conduct all jury trial in that circuit?

A Right.

Q Chancery court can have a jury trial, but it's merely advisory and they handle equity matters as opposed to law.

A Correct.

Q How long have you been Circuit Judge in the Eleventh Judicial District in Arkansas?

A I'm serving in my twentieth year now.

Q Before you were Circuit Judge, were you a prosecutor in the same district?

A Yes, sir.

[226] Q You were the District Attorney as some folks call it. We call it the prosecuting attorney.

A Yes, sir.

Q How long were you Prosecuting Attorney for this district?

A Fourteen years.

Q And before that, Judge Smith, you were in the House of Representatives of the State of Arkansas; is that correct?

A Yes.

Q For how long, sir?

A I served one term for Lincoln and one term for Jefferson.

Q Judge Smith, how long have you known Roy, Donnie, Thomas, Ed and the other one is James who is not here today? How long have you known them?

A I would say practically ever since they were little kids. I used to sell their father cattle back before they knew anything.

Q Judge Smith, you are, in addition to being our Circuit Judge, a farmer with your son; is that not correct?

A That's correct.

Q And you all have your own cattle?

A Yes, sir.

Q And do you buy or ever sell at the Glover auction?

A I sell; I don't buy.

[227] Q Judge, how often do you go to the auction?

A I go more often than I have cattle because I got out and watch the market frequently, and watch the sale.

Q And meet with the folks out there. You enjoy it.

A Yes, sir.

Q Judge, do you know these boys' reputation in this community and this area for truthfulness and honesty?

A I do.

Q Judge, would you say it was good or bad?

A It is good.

Q Judge, have you been out at these sales when the sale has been stopped for some reason?

A Yes, sir.

Q Does that happen quite frequently?

A It does.

Q Do you know why?

A I never asked or never heard anybody say.

Q But you have been there when they stopped the sale periodically for a short time; is that correct?

A That's correct.

MR. ELLBOTT: You may examine.

MR. KRZYMINSKI: No questions.

. . .

[237]

[ROY GLOVER—DIRECT]

Q Now these auctions are held by Glover Livestock Commission Company, Inc.; is that correct?

[238] A That's correct.

Q At these auctions does the seller have the right to refuse to sell?

A Yes, sir.

Q In other words, in plain language, if I give you my cow to sell and you run him through that pen out there or that circle—what do you call it?

A Auction ring.

Q If he is run through that ring and he brings 31 cents a pound as the highest bid, and I'm the owner, I don't have to take that 31 cents a pound.

A No, sir.

Q I can refuse it?

A Right.

Q What do I do if I refuse it?

A You take him back home.

Q How do I say I refuse it?

A P.O.

Q What does that mean?

A Pass-out.

Q Carrying this a little further, you put that cow—you don't do it; actually Thomas or James runs the ring, don't they?

A That's right.

Q But you've got the cow going around and the best [239] bid you got is 31 cents, and I, as the owner, say I don't want to sell it for that price.

A Right.

Q How much did it cost me to have you try to sell it?

A Not a dime; not nothing.

Q Not nothing?

A Right.

Q A pass-out doesn't cost a dime, except on horses and mules?

A That's right.

Q Now there are times when whoever is running that ring starts an animal off at a particular price; is that right?

A Correct.

Q The reason for that is that you try to support your own market; is that correct?

A We do.

Q In other words, Glover Livestock, like anyplace else, they try to keep their business.

A Right.

Q You don't go out and guarantee to a farmer you will get X number of cents, but you say that it ought to bring about so and so; is that correct?

A That is correct.

Q And then the man that is running that auction may start that calf off or that cow off at 31 cents a pound; is [240] that correct?

A That's correct.

Q And if there are no takers then, who buys it?

A Glover Livestock Commission Company.

Q That is your company that buys it. You are hooked with it.

A That's right.

Q If nobody bidding around that ring sales, "I'll buy it for that price" or more, you have to buy it.

A That's correct.

Q Then you have to peddle them the best way you know how.

A Right.

Q And that way a little weight difference might make a little difference to you.

A It could.

Q Do you have the loss figures for the years the Glover Livestock has conducted that?

A I have them at the office, but I can kind of recite them from memory. I can come close to it.

Q Well, I will ask you in order to save time. Is it true that in 1965 by such an operation Glover Livestock lost \$3,041.38?

A That's correct.

Q In 1966 you lost \$3,148.40.

[241] A That's correct.

Q In 1967 you lost \$3,211.64.

A Correct.

Q In 1968 you lost \$3,615.51.

A Yes, sir.

Q In 1969 you lost \$5,04.19. [sic]

A Correct.

MR. KRZYMSKI: May I ask counsel you intend to put these figures in by some documentation?

MR. EILBOTT: I will if you want me to get them. I just copies them down. I thought he would testify and have them with him, but he doesn't have them. I can get Mrs. Lee to get them for me.

MR. KRZYMSKI: I thought someone stated that Ed had them.

MR. EILBOTT: That's my law partner.

MR. KRZYMSKI: Are you intending to put them in through this witness?

MR. EILBOTT: Yes.

MR. KRZYMSKI: I don't think we have any objection.

By MR. EILBOTT:

Q Consequently, if there was any underweighing of cattle that Glover Livestock purchased itself, you certainly didn't make a profit doing it when you sold them; is that correct?
[242] A That's correct.

MR. EILBOTT: Mr. Krzymski, I'll do whatever you'd like on that. The figures came from the office.

MR. KRZYMSKI: We are satisfied with the testimony.

[249]

KNOX NELSON—DIRECT

was called as a witness on behalf of the respondent, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. EILBOTT:

Q. Mr. Nelson, your name is Knox Nelson?

A. That's correct, yes.

A. And you are the owner and operator of the Mobil distributor ship here in Pine Bluff?

A. Yes, sir.

Q. Well, for Jefferson County.

A. Yes, sir.

Q. In addition to that you are the secretary of the Associated General Contractors of the State of Arkansas with an office in Little Rock; is that correct?

A. Yes, sir.

Q. In addition to that you are the state senator from Jefferson and Lincoln counties of which Pine Bluff is a part; is that correct?

A. That's true, yes.

Q. How long have you been senator?

A. I've been senator twelve years and a member of the [250] House for four years.

Q. When you speak of the House, you mean the House of Representatives of the State of Arkansas?

A. Yes, sir.

Q. Therefore, you have held public office for a minimum of sixteen years; is that correct?

A. Yes, sir.

Q. Mr. Nelson, how long have you known the Glover boys?

A. All my life.

Q. How old are you?

A. I'm 43.

Q. You were born and raised in Lincoln County?

A. On the Lincoln and Jefferson County line at Moscow.

Q. I won't mention the name of the town out of deference to you.

Mr. Nelson, do you quite frequently go to the cattle sale out here?

A. I do.

Q. You happen to be one of the auction bugs; is that correct?

A. Yes, sir, and I farm too. I have a cattle farm.

Q. How many acres do you farm?

A. Around 500 in all.

Q. Around 500 acres?

A. Yes, sir.

[251] Q. And do you buy and sell cattle or what do you do out there?

A. I sell and buy cattle through the Glover boys, and in fact, I have a order placed now for some cattle with them.

Q. To buy?

A. Yes, sir.

Q. Mr. Nelson, in your frequent association out at the cattle auction, have you ever noticed them stop a sale?

A. Yes, sir, I've been there when they had to stop a sale.

Q. Have they ever told you why it was being stopped?

A. They had to move some cattle around on account of the crowded conditions.

Q. Mr. Nelson, are you familiar with the reputation of the Glover boys in this community and this area for truthfulness and honesty?

A. Yes, sir, very much so.

Q. Would you say it was a good or a bad reputation?

A. Very good. Very good.

MR. EILBOTT: Your examination, please.

CROSS EXAMINATION

By MR. KRZYMSKI:

Q. Sir, were you at the auction sale on February 25, 1969?

A. No, sir.

[252] MR. KRZYMSKI: No further questions.

MR. EILBOTT: You may or may not; is that correct? I'm willing to take the no, but he may have been.

THE WITNESS: I don't keep up with the dates I attend the auction. Sometimes I can only go down there and spend two hours and perhaps the whole auction.

If I may, I have known these gentlemen and I know them to be good businessmen. I know them for honesty in business; I know them socially. I have bought cattle through their auction and I've sold cattle through their auction. I

consider them outstanding community leaders and businessmen. I don't believe they would knowingly do anything wrong.

MR. KRZYMINSKI: I'd like to ask one more question.

RECROSS EXAMINATION

By MR. KRZYMINSKI:

Q. Sir, do I understand you to be saying that you are in no position to testify as to whether the sale of February 25, 1969, was stopped for the purpose of moving cattle?

MR. EILBOTT: Mr. Bain, I'd be willing to stipulate that he's in no position to testify, because he doesn't remember that date. I asked him and his answer is that he doesn't remember whether he was there or not.

MR. KRZYMINSKI: No further questions.

HEARING EXAMINER BAIN: You are excused.

(Witness excused.)

[351]

[KENNETH GRIZZELL]—FURTHER RECROSS EXAMINATION

By MR. EILBOTT:

Q. Mr. Grizzell, as long as you are on the stand, I want to ask you whether or not P and S instructions say that on a split you go down?

A. It is not, sir.

Q. Was there a Mr. Matheson of your office or a part of your office?

[352] **A.** A Fred Madison was—

MR. KRZYMINSKI: I think counsel here is going behind the scope of redirect.

HEARING EXAMINER BAIN: I think I will allow that question. It came up before. You may be technically right on the objection, but I'll overrule it.

THE WITNESS: I am not aware what Mr. Madison would have told them, but it's always been in the trade from years back that they always felt it right that they gave the so-called break of the beam to the buyer. In other words, they would never on that two and a half split go up to the next two and a half. They always went back.

It was in the trade to my knowledge since I've been with

Packers and Stockyards since 1951. We have never proposed that you go back. We say you should be fair. One time you go down; one time you go up. They even out in the trade.

By MR. EILBOTT:

Q. Mr. Grizzell, these gentlemen were raised in this trade and they were taught by their father, and they've come up in the trade. What you are saying is that the trade has always gone down, 'bit [sic] it's your feeling it ought to be an evening up; is that correct?

A. That's correct.

Q. But the trade itself has always felt that you go down.

[353] A. That's right.

Q. Is that correct?

A. That's my understanding.

Q. And they have followed what was followed in the trade as a custom of the trade, evidently, for quite a while. You would agree with that?

A. Yes, sir.

• • •

Q Yes.

[216] A We either draw drafts or they send the money in by mail or by the trucks.

Q How was the amount shown on the check determined? In other words, how much do they pay you? How do they determine what they are to pay the Southwest Cattle Company?

A Say like a load of cows sent to Armour?—

Q Yes.

A —through Southwest?

Q Yes.

A Well, on packers it's fifteen cents a hundred and a commission is added on and the trucking and if we feed them anything. They send in a check for the total amount.

Q So anything that is bought on order by Southwest Commission Company for Armour or any of these other people—

MR. EILBOTT: Excuse me, on packers now. There is a different commission on the other.

By MR. KRZYMINSKI:

Q —a commission is received; is that correct?

A Right.

Q And you stated that in the case of Armour it was fifteen cents per hundred weight?

A Right.

Q Is a commission received on purchases on orders for this Tom Triplett?

A Yes, sir.

[217] Q And do you know how much those commissions are?

A Twenty five cents.

Q And how much commission is received from Van Roach Cattle Company?

A Twenty five cents.

HEARING EXAMINER BAIN: How do you spell Roach?

THE WITNESS: R-o-a-c-h.

By MR. KRZYMINSKI:

Q Now you discussed, I believe, two particular head of livestock. One was designated as number 106, and the other was designated as number 117; is that correct?

A Correct.

Q If number 117 was sold at five pounds less than its actual weight, if you knew the price per pound at which it was sold, could you determine the amount of money that would be lost, based on that shortage of weight?

A Yes.

Q Could you determine it by making an examination of—

MR. EILBOTT: What do you want? The price of 117?

MR. KRZYMSKI: Yes.

MR. EILBOTT: I have the original weight tickets here.

MR. KRZYMSKI: I am interested in having her examine the purchase invoices which went along with the load.

By MR. KRZYMSKI:

[218] Q Now I believe that number 117 is shown on page two of Complainant's Exhibit 4-E. Now if that particular animal, showing a price of thirty-two-fifty per hundred weight—is that right?

A Right.

Q —were sold at five pounds less than its actual weight you would be able to determine the amount of loss based upon that price per hundred weight; is that correct?

A Yes. It would be thirty-two-fifty by the five pounds.

Q That would be thirty-two and a half cents a pound; is that correct?

A Correct.

Q And how much would it be on number 106? That's shown on page three of the same exhibit.

A It's twenty-nine-fifty.

Q And that would be interpreted as 29 and a half cents a pound; is that correct?

A Right.

Q I think I have one other question. If you will examine Complainant's Exhibit 4-A under the column "seller", and concerning yourself with the two animals we have been discussing, number 117 and number 106, you stated that these were both owned by Tom; is that correct?

A Right.

[219] Q Who is shown on these columns as the seller of those particular head?

A Southwest Cattle Company.

short weighed livestock it sold, as stated in Proposed Finding 4 above. After three investigations (Proposed Findings 2 and 3) had indicated that respondent was not weighing properly, it should not be surprising that a further check was made by complainant on respondent's weighing. This occurred on February 25, 1969, when two employees of complainant, assisted by employees of respondent, selected 28 drafts theretofore weighed by respondent for sale, and reweighed them. Of these drafts, 27 were one head each, the other being a cow and calf, giving a total of 29 head reweighed. Of the 28 drafts reweighed, no animal had access to feed or water between weighing for sale and check weighing, except for five head from one pen, which five each showed a loss on reweighing (Transcript, pages 17-18 [hereinafter "Tr. 17-18"], 110, 123-126).

When livestock are weighed twice, with intervening time during which they have not had access to feed or water, they will usually show a loss in weight due to shrinkage, including urination and defecation (Tr. 31-36, 98-99, 124-125). It is concluded that the nine animals which showed an apparent gain in weight between the weighing for sale and the check weighing were falsely underweighed by respondent, as charged in the complaint and shown in Proposed Finding 4. The 19 animals showing no loss were at least considerably above the usual expectancy in such cases.

The evidence is that respondent's officials gave no reason for the apparent gains in weight between the two weighings when questioned at the time, but at the hearing claimed that the reweighed animals had been moved from pen to pen between the weighings and therefore could have had access to feed and water. This claim is rejected: it is unbelievable that, if the reweighed animals had had access to feed or water between the weighings, an experienced stockyard operator would have so stated when asked to explain the apparent weight gains. Although all of the persons connected with the ownership of the respondent corporation who attended the hearing appeared to be admirable individuals, it is reluctantly concluded that the claim of pen shifts between weighings is unsupported. It is further concluded that for its willful violations of the Act, the following order should be issued against the respondent.

Proposed Order

Respondent, its officers, directors, agents and employees, directly or through any corporate or other device, in connection with its livestock transactions in commerce, shall cease and desist from:

(1) Weighing livestock at other than their true and correct weights:

(2) Issuing scale tickets or accountings on the basis of false and incorrect weights;

(3) Paying the consignors of livestock on the basis of weights other than the true and correct weights; and

(4) Failing to operate livestock scales owned or controlled by respondent in accordance with the regulations under the Act constituting INSTRUCTIONS FOR WEIGHING LIVESTOCK.

Respondent shall keep accounts, records, and memoranda which fully and correctly disclose all transactions involved in its business under the Act, including among other things, scale tickets, accounts of sale, and buyers' bills, which show the true and correct weights of livestock sold by respondent on a weight basis.

Respondent is suspended as a registrant under the Act for 30 days.

/s/ Jack W. Bain
JACK W. BAIN
Hearing Examiner

August 17, 1970

Note: The foregoing is a recommended decision, not a final order. The final order will be issued by the Judicial Officer after the parties have had opportunity to file exceptions, etc., as provided by the rules of practice.

/s/ Jack W. Bain
JACK W. BAIN
Hearing Examiner

August 17, 1970

The decision and order of the Judicial Officer of the Department of Agriculture is printed at Pet. App. B.

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

GLOVER LIVESTOCK COMMISSION
COMPANY, INC., PETITIONER

vs.

No. 71-1092

CLIFFORD HARDIN, SECRETARY OF
AGRICULTURE AND THE UNITED
STATES OF AMERICA, RESPONDENTS

PETITION FOR REVIEW

[Filed February 22, 1972]

Glover Livestock Commission Company, Inc., hereby petitions the Court for review of the order of the United States Department of Agriculture entered on behalf of the Secretary of Agriculture by his judicial officer wherein petitioner, Glover Livestock Commission Company, Inc., was ordered to cease and desist from certain alleged wrongful activities in the weighing of livestock and wherein further petitioner, Glover Livestock Commission Company, Inc., was suspended as a registrant under the Packers and Stockyards Act (7 U.S.C. 181 et. seq.) for a period of twenty (20) days effective March 1, 1971. Said order was entered February 5, 1971, and appears on the records of the United States Department of Agriculture as P & S Docket No. 4156.

REINBERGER, EILBOTT,
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P.O. Box 5010
PINE BLUFF, ARKANSAS 71601
*Attorneys for Petitioner,
Glover Livestock Commis-
sion Company, Inc.*

By [/s/ R. A. Eilbott, Jr.]

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re

GLOVER LIVESTOCK COMMISSION
COMPANY, INC., RESPONDENT

P&S Docket No. 4156

STAY ORDER

PENDING OUTCOME OF COURT APPEAL

In this proceeding under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 *et seq.*), an order was issued February 5, 1971, in part suspending respondent as a registrant under the act for a period of 20 days effective March 1, 1971. On February 16, 1971, counsel for respondent stated that a petition to review the final order was being prepared on behalf of respondent and requested that the suspension of respondent as a registrant under the act be stayed pending the outcome of the petition to review in the United States Circuit Court of Appeals for the Eighth Circuit.

The suspension of respondent as a registrant under the act contained in the order of February 5, 1971, is hereby stayed pending the determination of respondent's court appeal.

Done at Washington, D.C.

FEB. 18, 1971

/s/ THOMAS J. FLAVIN

Judicial Officer

The opinion and judgment of the Court of Appeals are printed at Pet. App. A and C.

SUPREME COURT OF THE UNITED STATES

No. 71-1545

**EARL L. BUTZ, SECRETARY OF AGRICULTURE, ET. AL.,
PETITIONERS,**

V.

GLOVER LIVESTOCK COMMISSION COMPANY, INC.

ORDER ALLOWING CERTIORARI. Filed October 24, 1972.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted.